

DATE: October 31, 2007

In Re:

SSN: -----

Applicant for Security Clearance

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) ISCR Case No. 07-06207
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**DECISION OF ADMINISTRATIVE JUDGE
JOHN GRATTAN METZ, JR.**

APPEARANCES

FOR GOVERNMENT

Ray T. Blank, Jr., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

____ Applicant's financial irresponsibility renders her an unsuitable candidate for a security clearance. Clearance denied.

STATEMENT OF THE CASE

____ Applicant challenges the 31 July 2007 Defense Office of Hearings and Appeals (DOHA) Statement of Reasons (SOR) recommending denial or revocation of her clearance because of financial considerations.¹ Applicant answered the SOR 20 August 2007, and requested a hearing.

¹Required by Executive Order 10865 and Department of Defense Directive 5220.6, as amended and modified—most recently in August 2006 (Directive).

DOHA assigned the case to me 12 September 2007, and I convened a hearing 10 October 2007. DOHA received the transcript (Tr.) 17 October 2007.

FINDINGS OF FACT

Applicant denied the financial allegations of the SOR, except for SOR 1.a., 1.b., 1.c., 1.d., 1.e., and 1.m. Accordingly, I incorporate her admissions as findings of fact. She is a 38-year-old project manager for a defense contractor since January 2006. She has not previously held a clearance.

The SOR alleges 11 delinquent debts totaling over \$13,000. Each of these debts is documented in Applicant's credit reports. Applicant admits six debts totaling over \$1,400, most of which are medical accounts, none of which have been paid. She claims to still be investigating the medical accounts even though the credit reports appear to reflect both the original creditor and the collection agent.

The bulk of her delinquent debt dates to 1999-2000, a period when she acknowledges she was not as financially responsible as she should have been (Tr. 30), demonstrating immaturity and poor judgment in conducting her financial affairs. When she received bills or collection notices in the mid-2000s, she ignored them because she did not have the money to pay (Tr. 37, 56; G.E. 2). She took no action to address her debts until 2006-2007, when it became clear that her delinquent debts might prevent her from obtaining her clearance (Tr. 39, 57). She paid the debt at SOR 1.g. in July 2006, and paid the debts at SOR 1.h. and 1.i. on the eve of her answer to the SOR in August 2007.

Applicant currently has the means to satisfy her past due debts as the result of a life insurance payment for her husband's death in April 2006. However, she has been slow to satisfy her delinquent accounts because she insists that the successor-in-interest collection agents corroborate their entitlement to payment where she is unable to connect the original debt to the collection agent. She pronounces herself concerned about financial fraud, and consequently is unwilling to pay creditors by electronic check or credit card. She reaffirms her intent to pay her past due creditors once she is satisfied she owes them money.

POLICIES AND BURDEN OF PROOF

The Revised Adjudicative Guidelines list adjudicative factors to be considered in evaluating an Applicant's suitability for access to classified information. Administrative Judges must assess both disqualifying and mitigating conditions under each adjudicative issue fairly raised by the facts and circumstances presented. Each decision must also reflect a fair and impartial common sense consideration of the factors listed in Section 6.3. of the Directive. The presence or absence of a disqualifying or mitigating condition is not determinative for or against Applicant. However, specific adjudicative guidelines should be followed whenever a case can be measured against them, as they represent policy guidance governing the grant or denial of access to classified information. Considering the SOR allegations and the evidence as a whole, the relevant, applicable, adjudicative guideline is Guideline F (Financial Considerations).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an Applicant's security clearance. The government must prove, by something less than a preponderance of the evidence, controverted facts alleged in the SOR. If it does so, it establishes a *prima facie* case against access to classified information. Applicant must then refute, extenuate, or mitigate the government's case. Because no one has a right to a security clearance, the Applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the government based on trust and confidence. Therefore, the government has a compelling interest in ensuring each Applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an Applicant's suitability for access in favor of the government.²

CONCLUSIONS

The Government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Government records document over \$13,000 of delinquent debt that Applicant is currently able to pay, but has largely failed to pay or establish repayment plans.³

Applicant meets none of the mitigating factors for financial considerations. Her financial difficulties are both recent and multiple;⁴ indeed they appear to be ongoing. Her debts are not due to circumstances beyond her control, and she has not acted responsibly in addressing her debts.⁵ While her insistence that the creditors prove their entitlement to payment might appear to be a prudent precaution in today's financial environment, from another angle it delays payment to potentially legitimate creditors because Applicant did not pay the accounts when the original creditors were trying to get paid. Consequently Applicant has no repayment plans with any of the alleged unpaid creditors, and is unable to demonstrate that she has the problem under control.⁶ Further, Applicant has taken no verified steps to address her debts.⁷ Even payment of the three accounts she has paid does not ameliorate the security concerns, undertaken as they were on the eve of her answer to the SOR. I conclude Guideline F against Applicant.

²See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

³¶19.(a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations; (e) consistently spending beyond one's means. . .

⁴¶20. (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

⁵¶20.(b) the conditions that resulted in the financial problem were largely beyond the person's control . . . and the individual acted responsibly under the circumstances;

⁶¶20.(c) the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control;

⁷¶20.(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

FORMAL FINDINGS

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraph a:	Against Applicant
Subparagraph b:	Against Applicant
Subparagraph c:	Against Applicant
Subparagraph d:	Against Applicant
Subparagraph e:	Against Applicant
Subparagraph f:	Against Applicant
Subparagraph g:	Against Applicant
Subparagraph h:	Against Applicant
Subparagraph i:	Against Applicant
Subparagraph j:	Against Applicant
Subparagraph k:	Against Applicant
Subparagraph l:	Against Applicant
Subparagraph m:	Against Applicant

DECISION

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance denied.

John G. Metz, Jr.
Administrative Judge